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MT LEGISLATIVE HISTORY

Chapter 480 1989

Bill (H) 593 S _____ Original bill & hist. ✓C

H. Committee on Judiciary

Hearing Date(s) Feb 15 ✓C

_____ ___C

_____ ___C

_____ ___C

Date Out Feb 15 ✓C

S. Committee on Public Health, Welfare & Safety

Hearing Date(s) Mar 12 ✓C

Mar 20 ✓C

_____ ___C

_____ ___C

Mar 20 ✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 593

INTRODUCED BY RUSSELL, HANSEN, HARRINGTON, REGAN, BROOKE, STICKNEY, KILPATRICK, J. BROWN, SQUIRES, REAM, WYATT, MCCORMICK, O'CONNELL, SPAETH, BACHINI, O'KEEFE, CONNELLY, BRADLEY, DAILY, PAVLOVICH, JACOBSON, VINCENT, VAUGHN, YELLOWTAIL

IN THE HOUSE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 7, 1989	FIRST READING.
FEBRUARY 15, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 94; NOES, 2.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
MARCH 28, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
	SECOND READING, CONCURRED IN.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 2.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1989	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 1, 1989	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

LC 1426/01

HOUSE BILL NO. 593

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COUNSELING FOR A PERSON CONVICTED OF DOMESTIC ABUSE FOR THE FIRST OR SECOND TIME; AND AMENDING SECTION 45-5-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-5-206, MCA, is amended to read:

"45-5-206. Domestic abuse. (1) A person commits the offense of domestic abuse if he:

(a) purposely or knowingly causes bodily injury to a family member or household member; or

(b) purposely or knowingly causes reasonable apprehension of bodily injury in a family member or household member. The purpose to cause reasonable apprehension or the knowledge that reasonable apprehension would be caused shall be presumed in any case in which a person knowingly points a firearm at or in the direction of a family member or household member, whether or not the offender believes the firearm to be loaded.

(2) For the purposes of this section and 46-6-401, "family member or household member" means a spouse, former spouse, adult person related by blood or marriage, or adult person of the opposite sex residing with the defendant or who formerly resided with the defendant.

(3) A person convicted of domestic abuse for the first or second time shall be fined not to exceed $500 or be imprisoned in the county jail not to exceed 6 months, or both. On a third or subsequent conviction for domestic abuse, the person convicted shall be fined not to exceed $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both.

(4) A person convicted of domestic abuse for the first or second time shall be required to complete at least 6 months of counseling, totaling at least 25 hours, with a person licensed under Title 37, chapter 3, 17, 22, or 23. The counseling must be directed to the violent conduct of the convicted person. This subsection does not prohibit the placement of the convicted person in other appropriate treatment if the court determines there is no available treatment program directed to the violent conduct of the convicted person. Upon the recommendation of the counselor, the sentencing judge may order additional counseling. Willful failure to obtain or pay for counseling ordered under this section is a civil contempt of court."

-End-

INTRODUCED BILL
HB 593

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Gould stated to Mr. Russell that the majority of the people participating in this program would be in larger communities where the parole and probation officers most likely are carrying a heavier case load. Therefore, if there was a stronger force of parole and probation officers, wouldn't the program be looked upon with more favoritism? Mr. Russell responded that Rep. Gould was correct and that there is more of an impact in the larger communities, mainly because that is where the post secondary educational programs and the major mental health centers are located. Mr. Russell also agreed with Rep. Gould that there is a need for additional parole and probation officers; however, more importantly he is concerned with the overcrowding of the Montana State Prison.

Rep. Wyatt questioned pursuant to the code, what has been happening to the judges in terms of when they're sentencing the more dangerous felons? Are they excluded often, most of the time or 100% of the time up front? Mr. Russell referred to the statute that allows the court to indicate that the person is not eligible for supervised release. Less than 5% of the time does that occur.

Closing by Sponsor: Rep. Brown closed.

DISPOSITION OF HOUSE BILL 571

Motion: A DO PASS motion was made by Rep. Addy, motion seconded by Rep. Aafedt.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken and CARRIED unanimously that HB 571 DO PASS.

HEARING ON HOUSE BILL 593

Presentation and Opening Statement by Sponsor:

Rep. Angela Russell, House District 99 stated that HB 593 in

essence is requiring that there be counseling available for a batterer in a domestic abuse situation. The definition of a batterer, primarily speaking of women who are battered (90% of battered victims are women), is a women who is repeatedly subjected to any forceful, physical or psychological behavior by a partner in order to coerce her. Rep. Russell commented that many communities offer counseling, either individually or in a group atmosphere for victims of domestic abuse. However, there still remains a need for programs, especially in small rural areas, for victims of domestic abuse. Approximately 90% of batterers are men and there is not the preponderance of counseling programs for these men, or for batterers in general. The question is why isn't there counseling for these men? Rep. Russell stated that the focus has primarily been on the emergency needs of the victim and the services provided for these victims. Additionally, batterers have been resistant to counseling. Since passage of the domestic abuse law, data on the incidence of conviction is only beginning to formulate. Rep. Russell versed caseload statistics from the Montana State Judicial Information System that indicated under domestic abuse, 6 temporary restraining orders were issued in 1985. There has been a steady increase up until the year 1988 as 221 temporary restraining orders were issued. Rep. Russell stated that the cost of domestic abuse to society, excluding prison cost is substantial. It includes private, state and federal dollars for such things as welfare, medical care, shelters, counseling, child care and of course, the psychological and physical injuries to families. Counseling to the batterer is essential if there is to be any impact on behavioral changes of the batterer and stop the continuing cycle of violence that seems to be pervasive with so many families.

Testifying Proponents and Who They Represent:

Wally Jewell, Former City Judge of Havre
Brenda Nordlund, Montana Womens Lobbyist Fund
Sharon Hanton, Director, National Association of Social Directors
Andree Larose, Self and Dennis Duncan, Counselor
Joan Rebich, Montana Mental Health Counseling Association
Dee Dee Yates, Self, YWCA Gateway House
Christie Marron, Montana Mental Health Center

Proponent Testimony:

Wally Jewell, appearing as the former City Judge from Havre submitted before the Committee written testimony expressing his support of HB 593 (EXHIBIT 1).

Brenda Nordlund stated that HB 593 is a necessary treatment program. Research and information leads her to believe that unless treatment is compelled often times it will not be sought. Ms. Nordlund read an excerpt from a recent technical bulletin from the American College of Obstetrics

and Gynecologists talking about the personality of the male batterer. This article is to help clarify the reasoning for seeking compelled treatment rather than seeking suggested treatment only. Most studies show that male batterers refuse to take responsibility for their behavior, blaming their victims for violent acts. These individuals often have strong controlling personalities and cannot tolerate autonomy in their partner. They are rigid in their expectations of marriage and sexual behavior. They often make unrealistic demands and have low tolerance for stress. They may appear depressed or even make suicidal gestures. Their basic behavior pattern is aggressive and assaultive and they often use violence to handle their problems throughout their lives. They can be charming and manipulative especially during their relationships outside the marriage. At the same time they frequently exhibit low self esteem, feelings of inadequacy and a sense of helplessness that is accentuated by the possibility of loosing their wife. It is often necessary to utilize the courts to get the batterer into a therapeutic situation. Ms. Nordlund commented that because of concerns of manipulation or denial, she believes this bill is a necessary solution to the problem. Additionally, Ms. Nordlund stated concerns regarding appropriate treatment that could be substituted for alcohol or substance abuse counseling.

Sharon Hanton expressed to the Committee that as a social worker she knows the people involved in domestic violence as either victims or perpetrators that are trapped in a cycle of behavior that often repeats itself. Victims frequently return to abusive relationships and perpetrators repeat their behavior towards the victim time and time again. Through counseling the perpetrator can learn to recognize signs of tension and anger that is built up. He or she can learn different ways of dealing with anger which follow the build up of stress. Ms. Hanton stated that she has found in her own personal practice as well as talking with other social workers that counseling is very helpful in dealing with the problem of domestic violence. She also suggested that the bill read, programs set up for domestic violence or counseling, or licensed professional persons be a part of this bill in order to allow for the counseling sessions in rural community areas. Ms. Hanton also emphasized the mandatory aspect of this bill because many of these people will not go in for personal counseling. They do not see that they have a serious problem and are out of control. For the above mentioned reasons, Ms. Hanton urged the Committee to modify the wording of the bill, but to pass it primarily as it currently stands.

Andree Larose, as an attorney representing many women who have been victims of domestic abuse voiced her personal support of HB 593. Additionally, Ms. Larose read to the Committee written testimony from Dennis Duncan, Licensed Professional

Counselor from Flathead County (EXHIBIT 2).

Joan Rebich stated that in her private practice she specializes in working with abused victims. In working with these victims, she has become aware of the continuing cycle that occurs with domestic abuse. Ms. Rebich commented that it is very important to offer counseling in order for these victims to stop be victimized as well as for the children of the batterers to not learn to identify with the aggressor and continue in the next generation to become batterers themselves.

Dee Dee Yates, a former battered wife, submitted before the Committee a written testimony expressing her strong support of HB 593 (EXHIBIT 3).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Hannah questioned Mr. Jewell as to if the courts currently have the authority to mandate counseling. Mr. Jewell responded that the court could probably take it upon themselves under 46-18-201, but that there is nothing specifically outlined for domestic abuse offenses.

Rep. Eudaily, referring to Page 2, Lines 20-21, asked what the court would do if there was an indigent person or a person who did not have the funds to pay for the counseling program? Would they hold them in content? Rep. Russell responded that she too has similar concerns regarding that issue and if the Committee wished to alter that language she would not be opposed to that suggestion.

Rep. Eudaily continued by stating that he understood the program to used for a first or second offense. He also understood someone to say that if it were on a voluntary basis that no one would take advantage of the program. Is this the reason for making it on a first offense as well as a second offense? Rep. Russell commented that information currently available indicates that no one will participate in this program voluntarily. Only in very rare instances will a person voluntarily seek counseling.

Rep. Addy questioned as to what the expected cost for the counseling program would amount to and who would be responsible for the cost? Rep. Russell responded that as the bill has been written, the individual who is required to take the counseling also be required to pay for that

counseling. Rep. Addy asked if there was an estimate of the costs that would be involved? Mr. Jewell responded based upon his experience in Havre that the program cost anywhere from $25.00 - $100.00 for the entire 26 week program. However, if the individual was unable to pay for the counseling program, it was then given to the abuser for nothing.

Rep. Brown, restating Rep. Russell's preference to leave the language regarding the licensed person as it stands on Line 12, questioned what Mr. Jewell said about that severely limiting the number of places that people can go for this counseling? Rep. Russell commented that the amendments suggested by Ms. Nordlund would take care of that problem. Specifically on Line 11, giving the specific language a specialized domestic violence intervention program, or licensed persons.

Closing by Sponsor: Rep. Russell, in closing, stated that it is very important that keeping within this bill, the counseling be directed to the violent conduct of the convicted person. She commented as to the amendments offered by Ms. Nordlund and expressed her approval and stated that it is important to utilize the groups that are currently being offered within the community that are interested in further development. Additionally, she expressed that it is equally important to keep within the bill licensed professional persons as well as mandate counseling. Rep. Russell commented that she does not think there will be an end to this continuing cycle of violence until such time that programs are mandated for the perpetrator.

DISPOSITION OF HOUSE BILL 593

Motion: A DO PASS motion was made by Rep. Darko, motion seconded by Rep. Wyatt.

Discussion: Council suggested that on page 2, line 10, following 2, insert pay for and.

Amendments, Discussion, and Votes: Rep. Wyatt moved the above mentioned amendments, seconded by Rep. Darko.

Rep. Eudaily asked how the amendment would benefit the person who is not able to pay for the counseling? Rep. Brown commented that a previous testimony stated that with most of these programs, it is absorbed in overhead if the individual cannot pay. If the person is indigent the court will not order the person to pay.

Rep. Rice was concerned with the definition of a counselor or licensed person. He perceived the J.P. having a tough time thinking that it is even possible to have a local minister do the counseling.

A vote was taken on the amendment and CARRIED unanimously.

Recommendation and Vote: Rep. Darko made a motion DO PASS AS AMENDED, motion seconded by Rep. Wyatt. A vote was taken and CARRIED unanimously.

HEARING ON HOUSE BILL 568

Presentation and Opening Statement by Sponsor:

Rep. John Mercer, House District 50 stated that initially, he would like to focus the Committee in as to what this bill is about. HB 568 is dealing with pre-dispositional detention of juveniles. That is from the time the juvenile would be taken into custody prior to the time that a judge would make a determination that the youth may be a delinquent. Currently, there is a Montana statute that takes effect as of July 1, 1989 which states that no juvenile in this pre-dispositional setting can be held in an adult jail. This raises a significant problem for Montana, as there will need to be some sort of alternative settings in which to hold these particular youths. As a result of that problem, the State Youth Advisory Council in connection with the Board of Crime Control set up a youth detention task force which did a study bringing this bill before the Committee. This bill attempts to set up a provision (which would delay the current project for an additional 2 years) where dollars would be collected at the State level and presented to the local governments for local decisions. Decisions to be made are as to what is the best placement for the youths that are in this pre-dispositional status. Rep. Mercer commented that there were a number of different entities that participated in the preparation of this study and he believes that the conclusions that they have come up with are the best in order to deal with this particular situation. He also asked that the Committee pay close attention to the fiscal note. The current law, as it is on the books, is going to put a fiscal impact of approximately 1 million dollars on local government. If this bill is passed, however, that fiscal impact will be avoided for a couple of years. Rep. Mercer feels that in order to have sufficient time to prepare for the mandates that are being required in connection with the detention for the juveniles pending disposition, it is important to try and avoid that impact.

Testifying Proponents and Who They Represent:

Rep. Bill Strizich, Great Falls Deputy Probation Officer
Steve Nelson, Board of Crime Control
Robert Mullen, Director, Dept. of Family Services
John Connor, Dept. Justice, County Prosecutors Services Bureau
Howard Gipe, Flathead County Commissioner
Dave Demmons, Missoula Chief Probation Officer
Mona Jamison, Montana Juvenile Probation Association

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 15, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

CS-30

STANDING COMMITTEE REPORT

February 15, 1989

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 593 (first reading copy -- white) do pass as amended .

Signed: _____

Dave Brown, Chairman

And, that such amendments read:

1. Page 2, line 10.
Following: "required to"
Insert: "pay for and"

2. Page 2, line 12.
Following: "23"
Insert: ", or in a specialized domestic violence intervention program"

EXHIBIT 1
DATE 2-15-89
HB 593

15 February 1989

Testimony given before the House Judiciary Committee with reference to HB593, a bill for an act entitled: "An act requiring counseling for a person convicted of domestic abuse for the first or second time;" given by Wallace A. Jewell.

First of all let me state that I am presenting this testimony NOT as the lobbyist for the Montana Magistrates Association but rather as a former city judge who knows this type of counseling does work, and does, in my estimation, reduce the number of repeat offenders.

First I should explain the program with which I am somewhat familiar. The Human Resources and Development Council in Havre, has put together an outstanding program structured around the very successful program first started in Duluth, Minnesota. The Havre program consists of a brief intake by a staff member, followed by a 26-week course which addresses issues of physical violence, intimidation, denial, and sexual and emotional abuse. Attendance is mandatory with a maximum of only 2 excused absences per 26 week period. The course is held 1 night per week. The cost of the program, because it is staffed primarily by volunteers, is from $25 to $100 for the entire 26 week program. The actual amount paid by the defendant who attends the program is based upon his or her ability to pay. There are very few defendants that cannot pay $1 per week.

In addition to the program offered for the defendants convicted of domestic abuse, there is also a program offered by HRDC that addresses the problems faced by their victims, both male and female. This program offers to the victim methods of dealing with an abuser; not in a physical sense but in an emotional and psychological sense. It is offered the same night as the course for the abuser; they even have free babysitting for those victims with children.

The sentence imposed by the court upon a defendant convicted of domestic abuse always included attendance in this counseling program.

In the 4 years between 1985 and 1988 the Havre City Court dealt with approximately 75 cases of domestic violence; of course not all the defendants in these cases were adjudicated guilty and in many instances, for 1 reason or another, the case never reached the trial stage. So, in 4 years the Havre City Court had approximately 50 cases in which the defendant was finallly adjudicated guilty. Of those 50 cases, I can remember only 2 repeat offenders.

Perhaps not all this success can be attributed to the counseling program but I am confident that a great deal of it is directly related to the availabilty of this treatment program.

I do however have some concerns with the legislation as proposed.

1) Does the reference on page 2, line 12, to Title 37, mean that programs such as the one that is so successful in Havre will not qualify under this bill? The closest thing to a licensed person with the program in Havre is a person who holds a Master's degree in social work.

2) The volunteer program I have described in Havre is directed to the violent conduct of the defendant but it is a volunteer program. In such an instance, what is the "other appropriate treatment" referred to on lines 15 and 16 on page 2?

3) If the court determines that there is a treatment program available that is directed to the violent conduct of the defendant, do lines 14 through 18 on page 2 prohibit the court from also ordering drug and/or alcohol treatment?

4) I would suggest to the committee that a clarification is needed of the language on page 2, lines 16 and 17, by further defining the meaning of the term "available treatment program." As the bill is now worded it seems that if there is only 1 program in the state that has a licensed person as described on line 12, then all the defendants in the state convicted of domestic abuse would be required to attend that program.

5) If the program in Havre meets the licensing requirement found on page 2, line 12, and does not need to hire a licensed person, then there will not be a necessity for lines 20 and 21 on page 2. In 4 years there was never anyone who could not afford to pay. If these counseling programs are required to hire a licensed person, then the fees will undoubtedly go up and this may make such counseling unavailable to the truly indigent folks who need it. In that case the $100 fine for civil contempt will be laughable because these people will not be able to afford that either.

6) Again with reference to page 2, lines 20 and 21, if a defendant is reluctant to obtain counseling, then the 1 day in jail provided as the punishment for civil contempt is not

EXHIBIT 1
DATE 2-15-89
HB 593

going to provide any real incentive to do so. I would suggest that the courts threatening to revoke a suspended 6 month jail sentence may provide more incentive to a defendant to obtain counseling. In this light it appears there is no real need for lines 20 and 21 on page 2.

By this testimony, I do not mean to suggest to the committee that I do not approve of counseling for defendants convicted of domestic abuse; on the contrary it is a very useful and usually successful sentencing option. What I do mean to suggest is that some attention needs to be given to counseling programs already in existence and to the success rates that they have achieved.

Merely ordering the defendant to counseling is of little value though if there is not some procedure in place whereby the court involved can follow up on it's sentence by in some way monitoring attendance and imposing further sanctions upon those defendants who fail to comply with the original order of the court. Without such follow up and "teeth in the order of the court," mandatory counseling for defendants guilty of domestic abuse should not be expected to accomplish its intended purpose.

Wallace A. Jewell

DENNIS DUNCAN, M.A.
Licensed Professional Counselor
Certified Chemical Dependency Counselor

EXHIBIT 2
DATE 2-15-89
HB 593

2-13-89

Dear Committee Member:

I am writing to express my support for HB #593 requiring counseling for those convicted of domestic violence. Research indicates that one out of every two women will experience some effects of domestic violence either directly or indirectly. Of further concern, is the fact that the pattern of violence is cyclic, and without a significant intervention, will likely occur again and again. The fact that limited interventions by the legal system is ineffective is borne out by the number of repeat offenders we see in the system.

My experience in providing counseling to this population is that unless mandated to receive counseling, the likelihood of remaining in counseling is minimal. I believe that this bill is a positive step in addressing a significant social problem. Please carefully consider the importance of your decision as one that could possibly prevent violence and the victimization of family members in this and future generations.

Thank You

Dennis Duncan

Dennis Duncan, M.A.
Licensed Professional Counselor

BOX 493, BIGFORK, MT 59911
(406) 837-5418

EXHIBIT 3
DATE 2-15-89
HB 593

February 14, 1989

To the Honorable Members of the Judiciary Committee;

I believed that living with violence was a normal way to live. My value system said I was to maintain a family structure at all costs.

Many times I would flee the relationship in hopes of changing my partner, only to return because he would promise to:

Change: "I won't do it again" or "I will go to marriage counseli Where I was told to become a more understanding wife

Listen to: Churches, ministers I was told to be more forgiving to keep the family unit

Get alcohol treatment: "That's why I do After treatment the violence escalted to include physic abuse of myself and children

Each time I returned home on the strength of one or more of the above promises. My situation worsened Not one of the treatment programs addressed the anger and abuse that was part of our daily existence.

For safety, I left the relationship

EXHIBIT 3
DATE 2-15-89
HB 593

believing that somehow I had failed, that I had violated my moral values by breaking up my home and my self esteem suffered each time.

My abuser was arrested, treated for chemical dependency, counseled by ministers and professional marriage counselors. I feel that all of this dealt with symptoms and not the problems in my home.

I feel strongly that the man I loved did not understand what motivated his anger or how to control it. He did try the usual avenues and I think he felt as defeated as I did. I feel if he had the proper intervention there would have been a better chance for us all.

As it is now, while I am no longer a victim, I know the abuser has just moved on to other women to victimize.

Dee Dee Yates
formerly battered women
Billings, MT

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 593 DATE FEB. 15, 1989

SPONSOR REP. RUSSELL

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Ted J. Dorey	MT. Mental Health Counselors Assn.	✓	
Angela Russell	Self	✓	
Brenda Nordlund	MT Women's Lobby	✓	
Jan Rebich	MT. Mental Health Cntrs.	✓	
Christie Marron	MT Council of Mental Health Centers	✓	
Wally Jewell	[redacted]	X	
Sharon Hunter	Nat Chapter NASW	✓	
Marylou Robertson	YWCA Gateway Home	✓	
Dee Dee Lyston	YWCA Gateway House	✓	
Andree Larose	Self & Dennis Duncan Counselor	✓	
Jill Kennedy	Friendship Center	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

opposed, 0. RECOMMENDED BE CONCURRED IN.

Senator Norman will carry HB 524 to the Senate floor.

HEARING ON HOUSE BILL 593

Presentation and Opening Statement by Sponsor: Angela Russell, Representative from House District #99, stated that she is presenting HB 593 which is a bill requiring counseling for a person convicted of domestic abuse for the first or second time. The Domestic Abuse Act was passed in 1985 and it does require, upon conviction, certain fine. On the third conviction there is the possibility of prison sentence. She reminded the committee that 90% of the victims are women, and many communities offer counseling programs either on an individual or group basis for victims. She pointed out that 90% of the batterers are men. It is her observation that much attention is given to women, but there are few programs for men. She provided data indicating that in 1985, there were 6 temporary restraining orders in domestic abuse cases; in 1988, there were 221. The Department of Institutions 1988 data shows there are presently four offenders in the state prison for domestic abuse. The cost to the state is about $13,000 per year in state prison, which amounts to about $52,000 for the four. The cost of domestic abuse to society is substantial. Counseling for the batterer is essential if there is to be any impact on behavioral changes in the batterer. A similar law seems to be working for DUI offenders. She urged the committee to give favorable support to this bill. She stated she was requested to provide an amendment that would require training for those individuals who would be giving counseling. She handed out copies of the amendment which would require 16 hours of training in dealing with an offender.

List of Testifying Proponents and What Group they Represent:

Judith Carlson, Montana Chapter of National Association of Social Workers
Steve Waldron, Montana Council of Mental Health Centers
Wally Jewell, Montana Magistrates Association
Ted Doney, Montana Health Association of Montana, and Montana Mental Health Consortium
Nancy Griffin, Women's Lobby

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Judith Carlson stated she is testifying on behalf of the Montana Chapter of the National Association of Social Workers. She stated they support HB 593. She stated this is an area that has received much attention recently and she wished to emphasize that the attention has primarily been on the victims, but in order to interrupt the cycle the people who are doing the battering must be reached. The proposed counseling would be worthwhile. The amendment would be acceptable since it would make sure the counselor had training in that particular area.

Steve Waldron, Executive Director of the Montana Council of Mental Health Centers, stated he is also President of the Board of Directors of the Friendship Center in Helena. He stated that at the Friendship Center they are finding that they are able to deal with children and mothers who have been abused, but there is real lack of programs for the offender. They find that battering is a learned behavior and battered children or those who observe their mothers being battered turn out to be offenders themselves. He requested consideration of an additional amendment which would include a professional person as defined in 53-21-102.

Wally Jewell stated that he is a former City Judge of Havre. He advised that during his four years as City Judge, the Department had 75 cases of domestic abuse come before the Court. About 50 cases were actually taken before court. He agreed with Representative Russell regarding the fact the counseling for DUI offenders has proved effective. He believes if there would be mandatory counseling for domestic abuse violators, that too would be effective. Regarding the amendment proposed by Rep. Russell, he questioned whether the court would be qualified to approve counseling programs for domestic abuse. Otherwise he supported the amendment. He presented written testimony (Exhibit #2).

Ted Doney, representing the Mental Health Counselors Association of Montana and the Mental Health Association of Montana, stated they would like to go on record as supporting HB 593. He did not commit support of the amendment until he had time to study it further.

Nancy Griffin, Women's Lobby, stated they would like to go on record in support of HB 593. She stated an important section of the bill was that the counseling must be directed to the violent conduct of the

convicted person, which is important because although this type of behavior may overlap with other types of behavior, this is a more specific issue and should be addressed. She urged a do pass recommendation. She also wondered if the court is the appropriate agency to approve these programs.

Questions From Committee Members: Senator Lynch asked what happens in the case of an indigent who is unable to pay for the counseling. Representative Russell stated she hoped that some kind of arrangements could be worked out. Senator Lynch stated the urban areas could probably handle the program, but he was concerned about the rural areas. He wondered if the Welfare Department would pick up such an expense. Rep. Russell stated that if the persons in question were eligible for Medicaid, it would probably be covered by Medicaid.

Senator Rasmussen asked if there are domestic abuse offender counselors out in the field. Rep. Russell stated they are such counselors, and to her knowledge there are some very specific programs. Senator Rasmussen asked how they become a domestic abuse counselor. She replied that there are courses that are offered through professional organizations. She stated that several years ago there was a program at the University of Washington in Seattle that specifically dealt with working with battered women, and she took a forty-hour course.

Senator Himsl asked if would be possible to take a 16-hour course and become a counselor. Rep. Russell stated the 16 hours would be in addition to their prior professional training.

Senator Norman asked if in the case of someone who has been doing psychiatry or psychology for 20 years and had dealt with several domestic abuse cases, would they have to complete 16 hours of training in a domestic abuse program. Rep. Russell responded by stating that if they had the experience and training, they would be approved as counselors. Senator Norman asked if the court has been referring these types of cases over the years to a particular practitioner, under this amendment could the court continue to do so. Rep. Russell stated she did not believe that there have been referrals for counseling for domestic violence. She added that there are many domestic abuse coalitions throughout the State of Montana and they are a network throughout the state, and have been in the business for some time and have much up-to-date info about programs available to them. She said the bottom line is that

something must be done for the offender, but the counselor must have some special training. She added that there are probably individuals at Eastern Montana College who possibly could develop a program for treating the offender.

Judith Carlson informed that the Montana Chapter of Association of Social Workers does sponsor several workshops on various topics and this would be the kind of thing where they bring in an expert and offer a three or four day workshop inviting people to come and get that type training. She believed it would be available.

Senator Hager also stated he did not believe the court should be the entity to approve the counseling program. He questioned whether the court was knowledgeable enough to approve the course. Rep. Russell agreed, and added that two other possible options would be the Board of Social Worker Examiners or the Montana Coalition Against Domestic Violence.

Senator Norman asked if the physicians and psychologists could be approved by their licensing boards. Rep. Russell stated that would be agreeable.

Closing by Sponsor: Representative Angela Russell stated that HB 593 requires some deliberation and thought on the part of the committee. It is a continuing problem. and affects children. She stated that in Billings she is involved in a group for battered women, and as part of that the YWCA has started a program for children. It is a continuing cycle of violence. She urged the committee's favorable consideration.

DISPOSITION OF HOUSE BILL 593

Discussion: None

Amendments and Vote: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 661

Presentation and Opening Statement by Sponsor: Jim Rice, Representative of House District #43, stated he is the sponsor of HB 661, which bill was requested by the Department of Health. In essence, he believes this bill says VD is out and STD is in. STD stands for

PUBLIC HEALTH COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 2/17/89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Hager	X		
Sen. Tom Rasmussen	X		
Sen. Lynch	X		
Sen. Himsl	X		
Sen. Norman	X		
Sen. McLane			X
Sen. Pipinich	X		

Each day attach to minutes.

Montana Magistrates Association

17 March 1989

SENATE HEALTH & WELFARE
EXHIBIT NO. #2
DATE 3/17/89
BILL NO. HB 593

Testimony given before the Senate Public Health Committee with reference to HB593, a bill for an act entitled: "An act requiring counseling for a person convicted of domestic abuse for the first or second time;" given by Wallace A. Jewell.

First of all let me state that I am presenting this testimony NOT as the lobbyist for the Montana Magistrates Association but rather as a former city judge who knows this type of counseling does work, and does, in my estimation, reduce the number of repeat offenders.

I should explain the program with which I am somewhat familiar. The Human Resources and Development Council in Havre, Montana, has put together an outstanding program structured around the very successful program first started in Duluth, Minnesota. The Havre program consists of a brief intake by a staff member, followed by a 26-week course which addresses issues of physical violence, intimidation, denial, and sexual and emotional abuse. Attendance is mandatory with a maximum of only 2 excused absences per 26 week period. The course is held 1 night per week. The cost of the program, because it is staffed primarily by volunteers, is from $25 to $100 for the entire 26 week program. The actual amount paid by the defendant who attends the program is based upon his or her ability to pay. There are very few defendants that cannot pay $1 per week.

In addition to the program offered for the defendants convicted of domestic abuse, there is also a program offered by HRDC that addresses the problems faced by their victims, both male and female. This program offers to the victim methods of dealing with an abuser; not in a physical sense but in an emotional and psychological sense. It is offered the same night as the course for the abuser; they even have free babysitting for those victims with children.

The sentence imposed by the court upon a defendant convicted of domestic abuse always included attendance in this counseling program.

In the 4 years between 1985 and 1988 the Havre City Court dealt with approximately 75 cases of domestic violence; of course not all the defendants in these cases were adjudicated guilty and in many instances, for 1 reason or another, the case never reached the trial stage. So, in 4 years the Havre City Court had approximately 50 cases in which the defendant was finallly adjudicated guilty. Of those 50 cases, I can remember only 2 repeat offenders.

Perhaps not all this success can be attributed to the counseling program but I am confident that a great deal of the credit for the low rate of recidivism is directly related to the availabilty of the HRDC program.

Merely ordering the defendant to counseling is of little value though if there is not some procedure in place whereby the court involved can follow up on it's sentence by in some way monitoring attendance and imposing further sanctions upon those defendants who fail to comply with the original order of the court. Without such follow up and "teeth in the order of the court," mandatory counseling for defendants guilty of domestic abuse should not be expected to accomplish its intended purpose.

I urge you to concur with the House in recommending passage of HB593.

Wallace A. Jewell

3/17/89

Amendments to House Bill No. 593
Third Reading Copy

Requested by Representative Angela Russell
For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 17, 1989

1. Page 3.
Following: line 1
Insert: "NEW SECTION. Section 2. Training requiring. A person may not provide counseling under 45-5-206(4) unless he has completed 16 hours of training in domestic abuse offender counseling through a program approved by the court."

COMMITTEE ON Public Health

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
Bruce Desonia	Mt. Dept. Health	661	✓	
Hal Manson	American Legion	HJ24	X	
John Sloan	MOPH	HJ24	✓	
John M. Demiterder	Dept of MT DAV	HJ24	X	
Robert Johnson	L&C Health Dept	HB524	✓	
" "	" "	HB661		
" "	" "	HB668		
Judith Carlson	DNES	668/HB		
Yvonne Bradford	Mela County Hlth. Dept	HB524	✓	
Wally Jewell	MT MAG ASSOC	HB593		
Judith Carlson	NASW	HB593	✓	
Tick Brown	MT Red Vets Affairs	HJR24	✓	
Kati Williams	Senator Bob Williams	SB270		
Dale Wheeling	Ex-POW's MDBC	HJR24	✓	
George O. Poston	United Veterans of MT	HJ-24	✓	
Steve Waldron	FRIENDSHIP CENTER Mental Health Center	HB593	X	
Ted Doney	Mental Health Assn. of Montana Montana Mental Health Counselors Assn.	HB593	X	
Yvonne Bradford	Mela Hlth Dept	HB668	X	

(Please leave prepared statement with Secretary)

Recommendation and Vote: Senator Norman MADE A MOTION THAT HB 102 BE TABLED. Senators in favor, 6; opposed, 0. MOTION PASSED UNANIMOUSLY.

EXECUTIVE ACTION ON HOUSE BILL 395

Senator Hager called for action on House Bill 395: Senator Hager stated this bill is an act granting prescriptive authority to nurse specialists.

Discussion: Senator Hager stated he had several phone calls suggesting that physicians supervise this authority. It was the committee's understanding that this was the case, and the Nurse Specialists would function in a similar manner as Physician Assistants.

Recommendation and Vote: Senator Lynch made a MOTION THAT HOUSE BILL 395 DO BE CONCURRED IN. Senators in favor, 6; opposed, 0. MOTION PASSED UNANIMOUSLY.

Senator McLane will carry HB 395 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 593

Senator Hager called for action on House Bill 593: HB 593 is an act requiring counseling for a person convicted of domestic abuse for the first or second time.

Discussion: Tom Gomez explained that the amendments adds the "professional person" as a person who will provide the counseling required in this bill. Senator Rasmussen stated he felt this was a reasonable way to help stop the problem. Tom Gomez added that the bill would say that a person convicted of domestic abuse for the first or second time shall be required to pay for and complete six months of counseling, totaling at least 25 hours, with a licensed person, or with a professional person as defined, or in a specialized domestic violence intervention program, which would give three options available.

Senator Lynch stated he did not believe that it should get to a point where volunteer people are outlawed just because they [illegible] professionals. Judith Carlson of the Department of Health [illegible]ed that the specialized domestic violence intervention program would include those types of volunteers who are not necessarily the so-called professionals. They would go through a training program.

Recommendation and Vote: Senator Lynch MADE A MOTION THAT

THE AMENDMENTS BE ADOPTED. Senators in favor, 6; opposed, 0. AMENDMENTS ADOPTED.

Senator Rasmussen moved that HB 593 BE CONCURRED IN AS AMENDED. Senators in favor, 5; opposed, 1 (Senator Himsl).

Senator Rasmussen will carry HB 593 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 668

Senator Hager called for action on HB 668: This bill specifies the circumstances under which the Department of Health and Environmental Sciences and local Health Departments may release health care information from their records.

Discussion: Chairman Hager asked how this bill would mesh with HB 437, the aids bill. Tom Gomez stated that HB 437 stated a person may disclose the identity of a subject of a test to the extent allowed under the Uniform Health Care Information Act, which includes disclosure to a health care provider if that provider has the need to know because they are rendering care to a person. In reference to HB 668, there is absent any provision regarding the relationship of disclosure here to the Uniform Health Care Information Act. If the UHCI Act provisions regarding disclosure were to apply in the case of government health care facilities, amendments would be necessary. The same policy would then prevail for HB 437 and HB 668.

Recommendation and Vote: Senator Norman moved that on page 3, line 2, "Chapter 16, Part 5" be inserted after "Chapters", and further that Section 9 be struck, and MOVED THAT THE AMENDMENTS BE ADOPTED. Senators in favor, 6; opposed, 0.

Senator Lynch MADE A MOTION THAT HB 668 BE CONCURRED IN AS AMENDED. Senators in favor, 6; opposed, 0.

ADJOURNMENT

Adjournment At: 2:40 p.m.

Tom Hager

SENATOR TOM HAGER, Chairman

TH/dq

senmindq.320

ROLL CALL

PUBLIC HEALTH COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3/20/88

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Hager	X		
Sen. Tom Rasmussen	X		
Sen. Lynch	X		
Sen. Himsl	X		
Sen. Norman	X		
Sen. McLane			Excused
Sen. Pipinich	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 28, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 593 (third reading copy -- blue), respectfully report that HB 593 be amended and as so amended be concurred in:

Sponsor: Russell (Jacobson)

1. Page 2, line 13.
Following: "(4)"
Insert: "(a)"

2. Page 2, line 15.
Following: "hours"
Strike: ","
Insert: ":
(i) "

3. Page 2, line 17.
Following: "23"
Strike: ","
Insert: ";
(ii) with a professional person as defined in 53-21-102;"
Following: "OR"
Insert: "(iii)"

4. Page 2, line 18.
Following: "PROGRAM."
Insert: "(b)"
Following: "counseling"
Insert: "provided in subsection (4)(a)"

5. Page 2, line 19.
Strike: "This subsection"
Insert: "Subsection (4)"

6. Page 2, line 25.
Following: "."
Insert: "(5)"

AND AS AMENDED BE CONCURRED IN

Signed: _____
Thomas O. Hager, Chairman

SENATE HEALTH & WELFA
~~EXHIBIT NO.~~
DATE 3/20/89
BILL NO. 593

Amendments to House Bill No. 593
Third Reading Copy

Requested by Representative Angela Russell
For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 16, 1989

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Following: "23"
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Following: "OR"
Insert: "(iii)"

4. Page 2, line 18.
Following: "PROGRAM."
Insert: "(b)"
Following: "counseling"
Insert: "provided in subsection (4)(a)"

5. Page 2, line 19.
Strike: "This subsection"
Insert: "Subsection (4)"

6. Page 2, line 25.
Following: "."
Insert: "(5)"

3/20/89

Amendments to House Bill No. 593
Third Reading Copy

Requested by Representative Angela Russell
For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
March 17, 1989

1. Page 3.
Following: line 1
Insert: "NEW SECTION. **Section 2. Training required.** A person may not provide counseling under 45-5-206(4)(a)(i) or (ii) unless he has completed 16 hours of training in domestic abuse offender counseling through a program approved by the appropriate licensing board."

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 HB Bill No. 593 Time

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	X	
Sen. Matt Himsl	X	
Sen. Bill Norman	X	
Sen. Harry McLane	—	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Sen. ~~Rasmussen~~ Lynch moved that the amendment be adopted

6 - 0

1989

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 3/20/89 Bill No. HB 593 Time

NAME	YES	NO
Sen. Tom Hager	X	
Sen. Tom Rasmussen	X	
Sen. Lynch	X	
Sen. Matt Himsl		X
Sen. Bill Norman	X	
Sen. Harry McLane	—	
Sen. Bob Pipinich	X	

Dorothy Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Rasmussen — yes Do Pass
— 9 out,
in favor 5 — 1 opposed.
0

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